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UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

CLAUD R. KOERBER,

Defendant.

**NOTICE RE UPDATED
INFORMATION RELATING TO
CONDITIONS AT TERMINAL ISLAND**

Case No. 2:17-cr-00037-FB-1
District Judge Frederic Block

Claud R. Koerber, through counsel, hereby submits this notice to supplement the renewed emergency motion submitted on April 29, 2020, with material information about conditions at Terminal Island that were emerging during the telephonic hearing held on May 12, 2020. First, on May 12th, a member of Congress toured Terminal Island and publicly described conditions inside the facility. Second, BOP has again updated their numbers.

Representative Nanette Barragán—the congresswoman who represents the region in which Terminal Island is located—toured the facility on May 12, 2020. Her tour came after she had publicly expressed concerns about the staggering rate of infection at the prison. After the

tour, she made public comments, saying, “I’m very concerned about what I saw inside. . . . What we’re being asked to do amongst the public is not being done in there.”¹ She explained that she observed large groups of inmates in close proximity, and found cramped barracks and no social distancing.² She also expressed concern about the protective equipment being used—although she observed inmates wearing face masks, she said none of them were N95 masks and instead the coverings were flimsy and falling off of the inmates’ faces.³ She said the inmates are in desperate need of adequate protective gear, hand sanitizer, and hand-washing stations.⁴ She compared the conditions inside the prison to the troubling conditions in detention centers at the U.S.-Mexico border, and described hearing inmates screaming from inside isolation units, begging for officials to “turn on the air, get us some air, help me.”⁵ She summed up her tour by explaining, “I’m very concerned because it’s a situation waiting to spread another positive case.”⁶ Representative Barragán explained that congressional hearings will be scheduled to determine what went wrong with the COVID-19 outbreak in federal prisons, and she believes Congress should first focus on Terminal Island.⁷

¹ Emily Rasmussen, *Coronavirus: U.S. Rep. Wants More Terminal Island Inmates at Home*, Daily Breeze, <https://www.dailybreeze.com/2020/05/12/coronavirus-u-s-rep-wants-more-terminal-island-inmates-at-home/> (last visited May 13, 2020).

² David Goldstein, *‘They Were Screaming’: Congresswoman Visits COVID-Plagued Terminal Island*, KCAL, <https://losangeles.cbslocal.com/2020/05/12/david-goldstein-investigation-terminal-island-covid-coronavirus-inmate/> (last visited May 13, 2020).

³ Rasmussen, *supra* note 1.

⁴ Cindy Von Quednow & Ellina Abovian, *CoCal Rep. Nanette Barragán Tours Terminal Island Prison, Where 7 Inmates Have Died From COVID-19*, KTLA, <https://ktla.com/news/local-news/socal-rep-nanette-barragan-tours-terminal-island-prison-where-7-inmates-have-died-from-covid-19/> (last visited May 13, 2020).

⁵ *Id.*

⁶ Goldstein, *supra* note 2.

⁷ *Id.*

Based on her observations, she concluded that the prison needs to place more of its low-security prisoners in home confinement, at least for the duration of the pandemic.⁸ She expressed frustration that, as of last week, prison officials told her that only six inmates at Terminal Island had been recommended for home confinement. A regional leader for the federal prison union, John Kostelnik, responded that the prisons and its staff are doing the best they can, and that home confinement is not a good option for inmates with violent pasts or sex-offender histories.⁹ Mr. Koerber does not have a violent past or a sex-offender history.

Late yesterday, BOP also updated its infection data to indicate that they are now only reporting 150 active cases among inmates at Terminal Island, with 552 inmates suddenly “recovered.”¹⁰ But as discussed in the hearing, we know little about whether recovered patients will be immune from reinfection and if so, for how long. We also know that high density environments like Terminal Island that experience high viral loads are a petri dish for mutated strains of the virus. Even now, two weeks after the prison detected an enormous spike in infections, it continues to operate the facility in a way that risks reinfection in the future, which poses a real danger to the inmates, the staff, and the general public.

⁸ Cindy Von Quednow & Ellina Abovian, *supra* note 4; Rasmussen, *supra* note 1.

⁹ Cindy Von Quednow & Ellina Abovian, *supra* note 4.

¹⁰ COVID-19 Coronavirus, Bureau of Prisons, <https://www.bop.gov/coronavirus/> (last visited May 13, 2020).

DATED this 13th day of May, 2020.

ZIMMERMAN BOOHER

s/ Dick J. Baldwin

Michael D. Zimmerman

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Certificate of Service

This is to certify that on the 13th day of May, 2020, I caused the foregoing to be served on the following via CM/ECF:

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